



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

H8
Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

08 DEC 1998

Warren M. Cheek, Jr.
WENDEROTH, LIND & PONACK
Suite 800
2033 "K" Street, N.W.
Washington, DC 20006

In re Application of :
Richard GRIFFITHS, et al. :
Serial No.: 08/973,363 :
PCT No.: PCT/GB96/01341 :
Int. Filing Date: 05 June 1996 :
Priority Date: 06 June 1995 :
For: AVIAN CHD GENES AND THEIR USE :
IN METHODS FOR SEX :
IDENTIFICATION IN BIRDS :

DECISION ON
PETITION
UNDER 37 CFR 1.181

This is a decision on the "RESPONSE" filed by facsimile on 07 April 1998, which is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the Notification of Missing Requirements issued by the Office on 09 March 1998 and acceptance of copies of the executed Declaration and cover letter accompanying the Response in lieu of the originals filed 04 February 1998. No petition fee is required.

BACKGROUND

On 05 June 1996, applicants filed international application PCT/GB96/01341, which claimed priority of an earlier British application filed 06 June 1995. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 12 December 1996. A Demand for international preliminary examination, in which the United States was elected, was filed on 03 January 1997. Accordingly, the thirty month period for paying the basic national fee in the United States expired at midnight on Monday 08 December 1997.

On 04 December 1997, applicants filed a Transmittal Letter for entry into the national stage in the United States under 35 U.S.C. 371. Filed with the Transmittal Letter was, inter

alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

In response to the Notification of Missing Requirements (Form PCT/DO/EO/905) of 09 March 1998, on 07 April 1998, applicants filed the present petition asserting that the declaration was received in the Patent and Trademark Office on 04 February 1998. A copy of the return postcard with the P.T.O. Mail-room date stamp of 04 February 1998 indicating that the declaration had been received by the Patent and Trademark Office and a copy of the declaration were also provided.

DISCUSSION

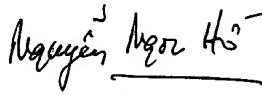
The evidence submitted by applicants is sufficient to establish that all the requirements of 35 U.S.C. 371 for entry into the national stage were timely completed on 04 February 1998 with the filing of the Declaration of the inventors in compliance with 37 CFR 1.497. Accordingly, the Notification of Missing Requirements of 09 March 1998 was mailed in error and is hereby VACATED.

DECISION

The petition under 37 CFR 1.181 requesting withdrawal of the Notification of Missing Requirements and acceptance of copies of the executed Declaration and cover letter as being filed 04 February 1998 is GRANTED.

The application is being returned to the DO/EO/US for processing in accordance with this decision, that is, a) for issuance of a Notification of Acceptance (Form PCT/DO/EO/903) with a 35 U.S.C. 371 and 102(e) date of 04 February 1998, and b) for preparation and mailing of a filing receipt.


Richard B. Lazarus
Supervisory PCT Legal Examiner
PCT Legal Office


Nguyễn Ngọc Hô
Paralegal Specialist
PCT Legal Office

NNH/RBL:hn